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is soberly written (p. 128) that "Germany's triumph, was at best, a Phryic victory." The "idea" of the Permanent Court, established by the First Conference, is declared to be "erroneous". Among the reasons advanced by Professor Scott is the fact that this Court was made "competent for all arbitration cases"; (p. 424) therefore it may decide questions of "a non-judicial nature," and its decisions may be made by "arbiters, chosen by the parties in the controversy." Elsewhere, however, (p. 188) Professor Scott has assured us that (p. 259) arbitration "decides a controversy according to principles of law." In fact, he has pointed out what is the "essence of arbitration": in one place (p. 189), the "essence of arbitration is the voluntary nature of the proceeding;" in another, (p. 275) the "essence of arbitration is the settlement of disputes between states by judges of their own choice on the basis of respect for law." But the author has a remedy for what is "erroneous." It is the *vœu* of the Second Conference proposing "a court of arbitral justice;" by means of it "the idea of a permanent court thus triumphed;" this "is a court in essence and in fact;" it is "the ideal Tribunal." True, it is (p. 130) "a court without judges, but judges will enter in the fullness of time." And besides the Prize Court (given the form of a convention by the Conference) "is a court without law." "But," the author hastens to add, "the nations can as easily supply the law for a prize court as they will the judges for the Court of Arbitration." As to "the law for" the Court of Arbitration, we are nowhere told whether it is completely supplied or whether none is required. Nowhere have we found a clear, exact expression of the author's own views as to the present possibilities of international arbitration.

As a whole the publication is not a credit to American scholarship, and in parts the methods of composition do not command respect. The author is undoubtedly an efficient public officer and successful lecturer. Our criticism is directed solely to his book. There is hardly a page which does not furnish some evidence of an incorrect apprehension of facts, of a misunderstanding of the matter quoted, of inconsequential reasoning, of extravagant and misleading statements. The method of presentation is prolix, unsystematic and altogether lacking in juridical exactness. For the failures in fairly correct English composition, the ungrammatical and jumbled sentences, the effusive and common-place diction, and the unmeaning loquacity, we ask those interested to examine almost any page of the author's writing. However, the documents and writings of others which he has compiled will be useful and convenient.

J. P. C.

THE COURTS OF THE STATE OF NEW YORK. By HENRY W. SCOTT. New York: WILSON PUBLISHING CO. 1909. pp. 506.

The examination of this volume has resulted in a feeling of disappointment. A carefully prepared work on the history and the present constitution of the courts of the State based upon some definite scheme of classification according to jurisdiction of subject-matter and territorial jurisdiction, with a systematic treatment founded upon such classification, would be extremely useful and convenient; but the volume under consideration is not of this character. The author states "as one of the causes leading up to the production of this work, that one of the first things to occupy his attention" in coming

to New York City from the West, in 1896 "was a search for a treatise from which he could familiarize himself with the history, development and jurisdiction of the courts of the State in which he was to engage in the practice of his profession and which was to become his future home, with the astonishing result that there was nothing to be found." If by this he means that there was no single comprehensive "treatise" upon the subject, he may be right; but, in the reviewer's opinion, it may be safely asserted that one who studies the monograph of Hon. Charles P. Daly on the "History of the Court of Common Pleas for the City and County of New York, with an account of the Judicial Organization of the State and of its Tribunals from the time of its settlement by the Dutch in 1623 until the adoption of the State Constitution of 1846," which is prefixed to the first volume of E. D. Smith's reports, published in 1855; the opinion of the same learned writer as Acting Surrogate in *Matter of Brick's Estate*¹; and supplements these studies with an examination of the first five articles in "The History of the Bench and Bar of New York" Vol. 1, published in 1897, by the New York History Company, will gain a much more accurate and comprehensive knowledge of our present courts, and of their origin and development than can be obtained from Mr. Scott's volume.

The work is divided into three parts, the first covering the "colonial period"; the second, the "constitutional period"; and the third purports to give what is termed a "chronological compilation of each court." Of these the first part is, on the whole, the most satisfactory, and is fairly accurate, but gives one the impression of patch-work, and of lack of definite plan on the part of the author, an impression which is strengthened by the second part, in which a number of actual misstatements might be pointed out, and others which, although not altogether incorrect, would, either from incompleteness or lack of qualification, be likely to lead to wrong conclusions unless the reader is extremely careful; and there is considerable needless repetition in both of these parts. It is difficult to see either the necessity for or the advantage of Part III in its present form. For the most part it consists simply of extracts from the preceding portions of the volume, and when this is not the case, the new matter is either incorrect, or often of such a nature as to give little idea of the jurisdiction and functions of the court of which it purports to treat. Probably the most striking instance is Chapter 59, entitled "Court of Claims." This so-called chapter contains the only mention in the book of such a court, and consists of nothing except a transcript of a portion of Chapter 205 of the Laws of 1883, which gives not the slightest information as to the jurisdiction of said court, its powers, or the procedure therein, and which portion, together with the remainder of said Chapter 205, was repealed by Chapter 36 of the Laws of 1897, now constituting title three, article one, chapter three of the Code of Civil Procedure.

Whatever merit there is in Mr. Scott's volume will be found in the first two portions, and for those who have neither the time nor the inclination to study the articles above mentioned, it will undoubtedly furnish considerable valuable information.

H. S. R.

¹1862 Abb. Pr. 12.